

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-59175

CHRISTOPHER SCOTT CARMODY
and LISETH C. CARMODY,

Chapter 13

Judge Thomas J. Tucker

Debtors.

CHRISTOPHER SCOTT CARMODY
and LISBETH C. CARMODY,

Plaintiffs,

v.

Adv. Pro. No. 09-6611

CITIMORTGAGE, INC.,

Defendant.

ORDER DISMISSING ADVERSARY PROCEEDING AS MOOT

This adversary proceeding was scheduled for an adjourned hearing on April 1, 2010 on the Plaintiff Debtors' motion for summary judgment (Docket # 10), and is scheduled for trial on April 13, 2010. The Court's most recent order adjourning the summary judgment hearing stated that no further adjournments of these dates would be granted. (Docket # 23). The April 1 summary judgment hearing did not go forward, however, because on the morning of April 1, 2010, counsel for Plaintiff Debtors indicated to chambers that the Debtors intend to convert their Chapter 13 case to Chapter 7. Debtors have the right to convert their case to Chapter 7 by filing a notice of conversion, although as of this writing, they have not yet filed such notice. In light of Plaintiff Debtors' stated intention to convert their Chapter 13 case back to Chapter 7, the Court concludes that this adversary proceeding is moot.

Accordingly,

IT IS ORDERED that this adversary proceeding is dismissed as moot.

This dismissal is without prejudice to the future Chapter 7 Trustee's right to file a timely adversary proceeding seeking to avoid the Defendant's mortgage, and/or seeking any other appropriate relief against Defendant.

Signed on April 02, 2010

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge